## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

PHILLIP WAYNE GRIFFIS	§	
v.	§	CIVIL ACTION NO. 6:13cv932
JOHN CARNES, ET AL.	§	

## MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

The Plaintiff Phillip Griffis, proceeding *prose*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Griffis complained of an alleged use of force incident carried out by officers of the City of Tyler Police Department. The Defendants answered the lawsuit and filed a motion for summary judgment based on the expiration of the statute of limitations. After review of the pleadings and the summary judgment evidence, the Magistrate Judge issued a Report recommending that the motion for summary judgment be granted and the lawsuit dismissed with prejudice.

Griffis received a copy of the Magistrate Judge's Report on May 28, 2014, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. <u>Douglass v. United Services Automobile Association</u>, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See* United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

**ORDERED** that the Report of the Magistrate Judge (docket no. <u>21</u>) is hereby **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the Defendants' motion for summary judgment (docket no. 14) be and hereby is **GRANTED** and that the above-styled civil action is hereby **DISMISSED WITH PREJUDICE**. It is further

**ORDERED** that any and all motions which may be pending in this action are hereby **DENIED.** 

It is SO ORDERED.

SIGNED this 27th day of June, 2014.

MICHAEL H. SCHNEIDER

UNITED STATES DISTRICT JUDGE

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